

BOHANON

## CIVIL DOCKET

UNITED STATES DISTRICT COURT

**Jury demand date:**

D. C. Form No. 106A Rev.

④

TITLE OF CASE				ATTORNEYS			
State Farm Mutual Automobile Insurance Company vs Edith Bitner, individually; Edith Bitner, administratrix of the estate of Arthur Scott Bitner, deceased; et al				<b>For plaintiff:</b> Best, Sharp, Thomas and Glass 200 Franklin Bldg, Tulsa, Okla.			
				<b>For defendant:</b> S.C. Fullerton III Nesbitt and Nesbitt 22½ East Central Miami, Oklahoma  Palmer, Shepherd, Maner & Armstrong 308 Center Building Tulsa, Oklahoma 74119  Richard K. McGee 340 Court Arcade Bldg. Tulsa, Oklahoma R. J. Woolsey 602 Natl. Bank of Tulsa, Tulsa 74103 H. G. E. Beauchamp, St. James Bldg., Robert P. Santee Miami 74354			
STATISTICAL RECORD		COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed		Clerk		12-12-68	Sharp	15 00	
				12-9-68	C/D No. 26		15 00
J.S. 6 mailed		Marshal			Alfred B. Knight (Midwest Natl. Ins. Co.) 212 Beacon Bldg. Tulsa, Oklahoma 74103		
Basis of Action: Recovery- Insurance-Policy.		Docket fee					
Interpleader Action		Witness fees					
Action arose at:		Depositions					

DATE	PROCEEDINGS	Date Order or Judgment Noted
12-12-68	Complaint in Interpleader filed. Summons issued.h	
12-12-68	Restraining Order filed that defendants enjoined from instituting and prosecuting any suit in any State of US Dist. Court pertaining to seeking to recover funds from policy issued by complainant State Farm Mutual Automobile Insurance Co. to Daniel Lynn Prater, except the rights of said defendants to appear in this suit and assert their claim against said policy and money deposited herein.(Fred Daugherty-Judge)h	
12-18-68	Return on service of summons filed. Affidavit of Joseph A. Sharp of serving Joe B. Hunt, Ins. Commr. of the State of Oklahoma, service Agent for said corporation by certified mail No. 375889, on 12-16-68, as evidenced by stamp of said Service Agent appearing on the face of said summons. ds (Midwest National Insurance Company)	
12-18-68	Return on service of summons filed. Affidavit of Joseph A. Sharp of serving Louis Tucker, Jr. individually and Louis Tucker, Jr. administrator of the estate of Floretta Tucker, deceased, by certified mail No. 375273, on 12-16-68, as shown by return receipt attached and signed by defendant, Louis Tucker, Jr. ds	
12-18-68	Return on service of summons filed. Affidavit of Joseph A. Sharp of serving Doyle D. Gurley, Certified Mail No. 375268, on 12-16-68, as shown by return receipt attached and signed by the defendant, Doyle D. Gurley. ds	
12-18-68	Return on service of summons filed. Affidavit of Joseph A. Sharp of serving Mary Lynn Gurley, a minor, by serving her father and natural guardian, Doyle D. Gurley, certified mail No. 375269, on 12-16-68, as shown by return receipt attached, and signed by Doyle D. Gurley, father and natural guardian of Doyle D. Gurley, a minor. ds	
12-18-68	Return on service of summons filed. Affidavit of Joseph A. Sharp of serving Joe B. Hunt, Ins. Commr. of the State of Oklahoma, service agent for Motorists Insurance Corporation, by certified Mail No. 375889, on 12-16-68, as evidenced by the stamp of said service agent on the face of said summons. ds	
12-20-68	Answer of Interpleaded Defendant Louis Tucker, Jr. as administrator, etc. filed.h	
12-20-68	Answer of Interpleaded Defendant Louis Tucker, Jr. individually filed. h	
12-23-68	Answer and Cross Complaint of Edith Bitner, filed. ds	
12-23-68	Answer of Edith Bitner, Administratrix of the Estate of Arthur Scott Bitner, deceased, filed. ds - and Cross Complaint	
12-23-68	Answer and cross-complaint of Federated Mutual Implement and Hardware Insurance Company, filed. ds	
12-31-68	Answer of Defendant Motors Insurance Corp. filed. h	
1-7-69	Application for extension of time to plead or answer of defendants, Betty Ruth Gurley, Doyle D. Gurley & Mary Lynn Gurley, filed. m	
1-7-69	Order extending time to answer of defts. Betty Ruth Gurley, Doyle D. Gurley & Mary Lynn Gurley to 30 days from 1-6-69, filed. (LB-J)m	
1-15-69	Application for Appointment of Guardian ad Litem filed by defendants.h	
1-17-69	Order appointing Doyle D. Gurley guardian adlitem filed. h	
1-27-69	Entry of appearance of Daniel Lynn Prater, filed.	
2-3-69	Answer and Counter-Claims, of Betty Ruth Gurley and Doyle D. Gurley, Individually, & Doyle D. Gurley as Guardian Ad Litem & next friend of Mary Lynn Gurley, a minor, and Mary Lynn Gurley, filed. js	
2-11-69	Defendant, USA, Answer and cross-claim, filed. ds	
2-13-69	Case set for pre-trial Tuesday 3-4-69 at 9:30 a.m. (LB-J)m	
2-14-69	Cross Claim of Louis Tucker, Individually, against Midwest National Insurance Co. filed. h	
2-18-69	Answer of Midwest Natl. Ins. Co. to cross-claim of Louis Tucker, Jr., administrator of the Estate of Floretta Tucker, filed. m	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
2-18-69	Answer of Midwest Natl. Ins. Co. to cross-claim of Doyle Gurley, filed. m	
2-18-69	Answer of Midwest Natl. Ins. Co. to cross-claim of Louis Tucker, Jr., filed. m	
2-18-69	Answer of Midwest Natl. Ins. Co. to cross-claim of Betty Gurley, filed. m	
2-18-69	Answer of Midwest Natl. Ins. Co. to cross-claim of Mary Ruth Gurley, filed. m	
2-18-69	Answer of Midwest Natl. Ins. Co. to complaint and cross-complaint against the plaintiff, filed. m	
2-19-69	Answer and response to counter claim of Betty Ruth Gurley against Edith Bitner as administratrix of the estate of Arthur Scott Bitner, deceased, filed. m	
3-4-69	Case called for pre-trial hearing. All parties waive jury in open Court as to all actions and Court concurs. All parties to file statements as to claims, with briefs as to authorities. Ordered that this case is consolidated with 68-C-182. Pltf. to prepare order that tape recording of Mr. Prater be made available to all parties. Case to be set on next pre-trial docket. (LB-J)m	
3-5-69	Brief and Statement of United States of America Ex Rel Railroad Retirement Board filed. h	
3-10-69	Order that this case and 68-C-182 are consolidated. (LB-J)m	
3-17-69	Dismissal without prejudice of defendants and cross complainants Betty Ruth Gurley, Mary Lynn Gurley & Doyle D. Gurley against deft. Mid-West Natl. Fire & Casualty Ins. Co., filed. m (68-C-259 only)	
3-20-69	Statement of position and brief of Doyle D. Gurley, Mary Lynn Gurley, and Betty Ruth Gurley, filed. m	
3-20-69	Order of dismissal without prejudice, filed and entered, of defts. and cross-complainants Betty Ruth Gurley, Mary Lynn Gurley and Doyle D. Gurley against deft. Mid-West Natl. Fire & Casualty Company or Mid-West Natl. Ins. Co. (LB-J)m	
3-26-69	Statement of Position and Brief of Defendants, Louis Tucker, Jr., individually, and Louis Tucker, Jr., Administrator of the Estate of Floretta Tucker, Deceased, filed. h	
3-27-69	Additional Statement of Position and Brief on the Part of Doyle D. Gurley, Betty Ruth Gurley, and Mary Lynn Gurley, filed. h	
3-28-69	Case set for pre-trial 4-9-69 at 9:30 a.m. (LB-J)m	
4-1-69	Statement of position and brief of Edith Bitner, Individually, and Edith Bitner as administratrix of the estate of Arthur Bitner, Deceased, filed. m	
4-2-69	Stipulation of plaintiff and certain defendants, filed. b	
4-4-69	Order filed and entered approving stipulation, directing disbursement to Motors Insurance Corporation, et al., and dismissing action as to defendants, Motors Insurance Corporation, Federated Mutual Implement and Hard Insurance Company. (Luther Bohanon - Judge) b	
4-7-69	Statement of Position filed by Mid-West National Insurance Co. filed. h	
4-7-69	Answer and Cross-Complaint filed by Midwest National Insurance Co. h	
4-9-69	Pre-trial hearing held. Deft's exhibits 1 thru 16 offered and admitted and withdrawn by Mr. Shepherd. Mr. Wagner to prepare order waiving right to \$20,000 except as through named insured. Jury heretofore waived. (LB-J)(FS-CSR)m	
4-11-69	Stipulation for dismissal of cross-complaint filed by Louis Tucker against Midwest Natl. Ins. Co., filed. m	
4-18-69	Depositions of Betty Ruth Gurley, Doyle D. Gurley, Louis F. Tucker, Jr., and Daniel Lynn Prater, taken on 2-27-69, at Miami, Oklahoma, by G. C. Freeman, Jr. CSR. (\$67.20) ds (over)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-25-69	Deposition of Edith Bitner, taken on behalf of deft. Louis F. Tucker, Jr., filed. (Fees: \$17.50)m	
4-29-69	Case set for non-jury trial Tuesday 5-13-69 at 1:30 p.m. (LB-J)m	
5-5-69	Motion of deft. Midwest Natl. Ins. Co. to dismiss without prejudice all claims made by said deft. and order dismissing claims made by Midwest Natl. Ins. Co., filed. (LB-J)m	
5-5-69	Stipulation of Louis F. Tucker, Admr., and Edith Bitner, Admr., filed. b	
5-9-69	Deposition of Doctor Rex M. Graham, taken on behalf of the Defendants Gurley, and the deposition of Doctor Lawrence Johnson, taken on behalf of the defendant, Tucker, on the 2nd day of May, 1969, by G. C. Freeman, Jr., CSR. (Costs: Gurley, \$26.70, Tucker, \$16.60. ds	
5-9-69	Defendant Gurley's exhibits A thru N inclusive (X-Rays) to be attached to deposition of Dr. Rex M. Graham's deposition, filed. b	
5-12-69	X-Ray exhibits of the defendant Louis Tucker, taken by Doctor Lawrence Johnson, Afton, Oklahoma, filed. b	
5-13-69	Deposition of Dr. Charles E. Brighton taken on behalf of defendant Gurley on 5-6-69, filed. (Fees: \$17.00)m	
5-13-69	X-ray films of Mrs. Betty Ruth Gurley taken by Dr. Charles E. Brighton, filed. m	
5-13-69	Case tried to the Court. Case heretofore consolidated with 68-C-182. Stipulation and order signed and filed in open court over objections to changes by govt. Parties to submit briefs within 10 days, and ruling taken under advisement. (LB-J)m	
5-13-69	Stipulation of defendants for disbursement of proceeds of \$20,000 deposited with the clerk of the court by pltf., State Farm Mutual Automobile Insurance Company, filed. m	
5-13-69	Order approving stipulation for disbursement of funds and order for disbursement of funds, filed. (LB-J)m	
5-21-69	Brief of Defendant Estate of Arthur Bitner filed. h	
5-23-69	Brief on behalf of Louis F. Tucker and Louis F. Tucker, as Administrator of the Estate of Floretta Tucker, filed. b	
5-23-69	Memorandum brief on behalf of Doyle D. Gurley, Betty Ruth Gurley, and Mary Lynn Gurley, filed. m	
5-28-69	Stipulation for dismissal of <del>cross</del> -complaint filed by Louis Tucker against Midwest Natl. Ins. Co. without prejudice, <del>with order</del> dismissing said cross-complaint, filed. (LB-J)m	
6-4-69	Findings of fact and conclusions of law, filed. (LB-J)m	
6-5-69	Judgment, filed and entered, that judgment as to 68-C-182 is awarded in favor of deft. Edith Bitner, as admr. of Est. of Arthur S. Bitner, deceased, including judgment for personal injuries, hospital expenses, etc. all in Case No. 68-C-182; and that judgment is entered in favor of Edith Bitner, Admr. of Est. of Arthur Scott Bitner, deceased, on counter-claims of Betty Ruth Gurley, Doyle D. Gurley & Doyle D. Gurley as guardian ad litem of Mary Lynn Gurley. (LB-J)m (Copies mailed)	
6-16-69	Motion for new trial of Betty Ruth Gurley, Doyle D. Gurley and Doyle D. Gurley as guardian ad litem for Mary Lynn Gurley and Louis F. Tucker, filed. g	
6-16-69	Brief in support of motion for new trial, filed. g	
7-10-69	Notice of appeal by United States of America, filed. copies sent to USCA and all counsel of record. g	
8-4-69	Order overruling motion for new trial, filed and entered. (LB-J)g	
8-4-69	Hearing held on motion for new trial of Betty Ruth Gurley, Doyle D. Gurley, a Doyle D. Gurley as guardian ad litem for Mary Lynn Gurley and Louis F. Tucker. Ordered that motion is overruled. (LB-J)m	

(Continued on Sheet No. 2, Page 3)

DATE	PROCEEDINGS	Date Order or Judgment Noted
8-22-69	Govt's motion to dismiss appeal, filed. m	
8-26-69	Order dismissing appeal, filed and entered. (LB-J) ds <i>cpy to court + HSCA</i>	
10-11-74	Appl. of pltf. for disbursement of funds, filed. rm	
10-21-74	Order, filed (part of applic.) directing Clerk to disburse \$1.75 to pltf. (LB-J)hm (copy mailed Joe Sharp)	

DATE	PROCEEDINGS	Date Order or Judgment Noted